

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MIKE COTA,

Plaintiff

v.

JOHN DOE, *et al.*,

Defendants

Case No. 3:21-cv-00350-RCJ-CLB

**ORDER REQUIRING
FINANCIAL CERTIFICATE**

I. DISCUSSION

On August 10, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1). However, Plaintiff did not pay the filing fee or submit an application to proceed *in forma pauperis*. Plaintiff was ordered to submit an application to proceed *in forma pauperis* together with a financial certificate properly signed by both the inmate and prison official together with a copy of the inmate’s trust fund account statement for the previous six-month period. (ECF No. 4.) Plaintiff filed the application to proceed *in forma pauperis*; however, Plaintiff did return the financial certificate or the account statement as ordered. (*Id.*)

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and
- (3) a copy of the **inmate’s prison or jail trust fund account statement for the**

1 previous six-month period.

2 Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*
3 (ECF No. 4) without prejudice because the application is incomplete. The Court will grant
4 Plaintiff a one-time extension to file a fully complete application to proceed *in forma*
5 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
6 application to proceed *in forma pauperis* on or before **October 15, 2021**. Absent unusual
7 circumstances, the Court will not grant any further extensions of time. If Plaintiff does not
8 file a fully complete application to proceed *in forma pauperis* with all three required
9 documents on or before **October 15, 2021**, this case will be subject to dismissal without
10 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all
11 three of the documents needed to file a fully complete application to proceed *in forma*
12 *pauperis* or pays the full \$402 filing fee.

13 A dismissal without prejudice means Plaintiff does not give up the right to refile the
14 case with the Court, under a new case number, when Plaintiff has all three documents
15 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
16 may choose not to file an application to proceed *in forma pauperis* and instead pay the
17 full filing fee of \$402 on or before **October 15, 2021** to proceed with this case.

18 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1) but the Court
19 will not file the complaint unless and until Plaintiff timely files a fully complete application
20 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

21 **II. CONCLUSION**

22 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
23 *in forma pauperis* (ECF No. 4) is denied without prejudice to file a new fully complete
24 application to proceed *in forma pauperis* with all three documents.

25 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
26 approved form application to proceed *in forma pauperis* by an inmate, as well as the
27 document entitled information and instructions for filing an *in forma pauperis* application.

28 IT IS FURTHER ORDERED that on or before **October 15, 2021**, Plaintiff will either

1 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
2 administrative fee) or file with the Court:

3 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
4 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
5 signatures on page 3),

6 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
7 official (i.e. page 4 of this Court's approved form), and

8 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
9 **previous six-month period.**

10 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
11 application to proceed *in forma pauperis* with all three documents or pay the full \$402
12 filing fee for a civil action on or before **October 15, 2021**, this case will be subject to
13 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
14 number, when Plaintiff has all three documents needed to file a complete application to
15 proceed *in forma pauperis* or pays the the full \$402 filing fee.

16 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
17 (ECF No. 1-1) but will not file it at this time.

18 DATED: August 24, 2021

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UNITED STATES MAGISTRATE JUDGE